



January 25, 2002

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## SENATE BILL No. 343

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DIGEST OF SB 343 (Updated January 23, 2002 4:26 PM - DI 105)

**Citations Affected:** IC 12-7; IC 12-23; IC 33-13; IC 33-19; IC 34-6; IC 34-30; noncode.

**Synopsis:** Provides that a court with criminal or juvenile jurisdiction may establish a drug court as part of the court's docket. Provides that an alcohol and drug services program is available only to a person charged with or convicted of a misdemeanor or felony.

**Effective:** July 1, 2002.

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**Wyss, Alexa**

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January 8, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

January 17, 2002, amended; reassigned to Committee on Judiciary.

January 24, 2002, amended, reported favorably — Do Pass.

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SB 343—LS 6998/DI 13+



January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 343

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-12 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. "Alcohol and drug  
3 services program", for purposes of IC 12-23, means a service for  
4 persons charged with or convicted of a misdemeanor or ~~infraction~~;  
5 **felony**, which provides intervention, education, referral, treatment, or  
6 rehabilitation, under the operation of a court or under private contract.

7 SECTION 2. IC 12-7-2-26.5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2002]: Sec. 26.5. "Chemical test", for purposes of IC 12-23-14  
10 and IC 12-23-14.5, means an analysis of an individual's:

- 11 (1) blood;  
12 (2) breath;  
13 (3) hair;  
14 (4) sweat;  
15 (5) saliva;  
16 (6) urine; or  
17 (7) other bodily substance;

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1 to determine the presence of alcohol or a controlled substance (as  
2 defined in IC 35-48-1-9).

3 SECTION 3. IC 12-7-2-73.5 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2002]: Sec. 73.5. (a) "Drug court", for purposes of IC 12-23-14.5,  
6 means an immediate and a highly structured judicial intervention  
7 process for substance abuse treatment of eligible defendants or  
8 juveniles that:

9 (1) brings together substance abuse professionals, local social  
10 programs, and intensive judicial monitoring; and

11 (2) follows the ten (10) key components of drug courts  
12 published by the Drug Court Program Office of the United  
13 States Department of Justice.

14 (b) The term does not include an alcohol abuse deterrent  
15 program established under IC 9-30-9.

16 SECTION 4. IC 12-23-14-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. The court ~~shall~~ **may**  
18 establish uniform rules ~~if pertinent~~ and may make special orders and  
19 rules as necessary.

20 SECTION 5. IC 12-23-14-6 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) A program may  
22 provide for eligible individuals a range of necessary intervention  
23 ~~treatment, and rehabilitation~~ services, including the following:

24 (1) ~~Emergency~~ **Screening for eligibility and other appropriate**  
25 services.

26 (2) ~~Detoxification.~~ **Clinical assessment.**

27 (3) ~~Detention.~~

28 (4) ~~Diagnostic evaluation and assessment.~~

29 (5) ~~Counseling.~~

30 (6) **(3) Education.**

31 (7) **(4) Referral.**

32 (8) ~~Rehabilitative care.~~

33 (5) **Service coordination and case management.**

34 (b) A program that is eligible under section 7 of this chapter  
35 may also provide a range of necessary treatment and rehabilitation  
36 services, including the following:

37 (1) **Emergency services.**

38 (2) **Detoxification.**

39 (3) **Counseling.**

40 (4) **Rehabilitative care.**

41 SECTION 6. IC 12-23-14-18 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2002]: **Sec. 18. (a)** As a condition of participation in an alcohol and drug services program, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the program. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court alcohol and drug services program or the laboratory.

**(b)** A laboratory that performs a chemical test under this section shall report the results of the test to the program.

SECTION 7. IC 12-23-14-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 19. (a)** A person does not have a right to participate in an alcohol and drug services program under this chapter.

**(b)** The director and members of the professional and administrative staff of an alcohol and drug services program who perform duties in good faith under this chapter are immune from civil liability for:

- (1) acts or omissions in providing services under this chapter; and
- (2) the reasonable exercise of discretion in determining eligibility to participate in an alcohol and drug services program.

SECTION 8. IC 12-23-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 14.5. Drug Courts**

**Sec. 1.** A court having felony, misdemeanor, or juvenile jurisdiction in a city or county may establish a drug court under the court's operation.

**Sec. 2.** A court establishing a drug court under this chapter may establish uniform rules and may make special orders and rules as necessary.

**Sec. 3.** A drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

**Sec. 4. (a)** A drug court established under this chapter may provide for eligible individuals a range of necessary intervention services, including the following:

- (1) Screening for eligibility and other appropriate services.
- (2) Clinical assessment.
- (3) Education.



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(4) Referral.

(5) Service coordination and case management.

(b) A drug court that is eligible under section 5 of this chapter may also provide treatment and rehabilitation services, including the following:

(1) Emergency services.

(2) Detoxification.

(3) Counseling.

(4) Rehabilitative care.

Sec. 5. A drug court established under this chapter may not provide direct treatment or rehabilitation services unless:

(1) the drug court is certified by the division; and

(2) the court that established the drug court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

Sec. 6. (a) Except as provided in subsection (c), a court shall notify the Indiana judicial center during the planning stages of the court's intention to establish a drug court.

(b) Before a drug court may begin operation, the court must obtain a written statement from the Indiana judicial center approving the operation of the drug court.

(c) A drug court in operation before July 1, 2002, may continue to operate pending certification if the drug court does the following:

(1) Before October 2, 2002, notifies the Indiana judicial center of the date the drug court began operation.

(2) Follows procedures for certification as provided in rules adopted under section 9(d) of this chapter, including submission of an application for certification as required by the rules.

Sec. 7. In addition to satisfying the requirements of section 6 of this chapter, a court seeking to establish a drug court must submit a petition for approval of the drug court. The petition must contain the following:

(1) A full description of a proposed drug court.

(2) Evidence that the court has considered:

(A) how to best use services that could be provided by any existing court alcohol and drug services program; and

(B) the role that an existing alcohol and drug services program will play in the development and implementation of the drug court.

(3) A proposed budget for the drug court.



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(4) Details on the implementation of the drug court.

Sec. 8. A court may take steps necessary to carry out the functions of the drug court, including hiring employees as needed to perform the required functions of the drug court.

Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-13-14-2.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-13-14-7.

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.

(2) Certify drug courts established under this chapter.

(3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.

(4) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules under IC 4-22-2 to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

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- (A) by a certified drug court before the effective date; or  
 (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

Sec. 10. (a) The costs of a drug court established under this chapter may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-19-8.

(b) The court shall fix the compensation of employees of the drug court.

Sec. 11. A drug court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grant and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the court's budget.

Sec. 12. (a) A court that has established a drug court under this chapter may require an eligible individual to pay a fee for drug court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for drug court services.

(c) The fee for drug court services may not exceed five hundred dollars (\$500) per referral to the drug court.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8.

Sec. 13. (a) The Indiana judicial center drug court fund is established for the purpose of administering, certifying, and supporting drug courts under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 14. (a) A person is eligible to participate in a drug court only if:

- (1) the person meets all criteria established by the drug court;
- (2) the judge approves the admission of the person to the drug court; and



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(3) the offense for which the person is referred to drug court is not any of the following:

(A) A forcible felony (as defined in IC 35-41-1-11).

(B) A dealing offense under IC 35-48-4.

(C) Any offense that a local drug court committee agrees to exclude from participation.

The local drug court committee referred to in subdivision (3)(C) must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney.

(b) If a person is eligible to participate in a drug court, a person may be referred to the drug court as a result of any of the following:

(1) The procedure described in section 15 of this chapter.

(2) As a term of probation.

(3) In response to a violation of a condition of probation.

Sec. 15. (a) A drug court may follow the procedure described in this section only if:

(1) a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense;

(2) the court refers the person to a drug court;

(3) the prosecuting attorney consents to the referral;

(4) the person who pleads guilty under subdivision (1) consents to the referral;

(5) the person who pleads guilty under subdivision (1) is eligible to participate in the drug court under section 14(b) of this chapter and the drug court accepts the referral; and

(6) the person has not had a previous dismissal under this section.

(b) Notwithstanding IC 35-38-1-1(a), the court, without entering a judgment of conviction, may defer further proceedings and place the person in the custody of the drug court under conditions as the court determines.

(c) The court, the prosecuting attorney, and the participant must all agree upon the duration of the conditions established under subsection (b).

(d) The court may enter a judgment of conviction if:

(1) the person violates a condition established under subsection (b); or

(2) the period of time that the conditions are in effect expires before the person successfully completes each condition of custody.





(e) The court shall dismiss the charges against the person if the person fulfills the conditions of the custody established under subsection (b).

**Sec. 16. (a)** As a condition of participation in a drug court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court or the laboratory.

**(b)** A laboratory that performs a chemical test under this section shall report the results of each test to the court.

**Sec. 17. (a)** A person does not have a right to participate in a drug court under this chapter.

**(b)** The coordinator and members of the professional and administrative staff of the court who perform duties in good faith under this chapter are immune from civil liability for:

**(1)** acts or omissions in providing services under this chapter; and

**(2)** the reasonable exercise of discretion in determining eligibility to participate in a drug court.

**SECTION 9.** IC 33-13-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 7.** The Indiana judicial center shall administer the alcohol and drug services program under IC 12-23-14 and the certification of drug courts under IC 12-23-14.5.

**SECTION 10.** IC 33-19-6-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 22. (a)** This section applies to a proceeding in a drug court under IC 12-23-14.5.

**(b)** The clerk shall collect a drug court fee if payment of the fee is ordered by a drug court under IC 12-23-14.5-12.

**SECTION 11.** IC 33-19-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3. (a)** A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund shall be administered by the fiscal officer of the city or town.

**(b)** The city or town fund consists of the following fees collected by a clerk under this article:

**(1)** The pretrial diversion program fee.

**(2)** The alcohol and drug services fee.

**(3)** The law enforcement continuing education program fee.



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(4) The deferral program fee.

**(5) The drug court fee.**

SECTION 12. IC 33-19-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) A county user fee fund is established in each county for the purpose of financing various program services. The county fund shall be administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article, and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The jury fee.

**(8) The drug court fee.**

(c) All of the jury fee and two dollars (\$2) of every deferral program fee collected under IC 33-19-5-2(e) shall be deposited by the county auditor in the jury pay fund under IC 33-19-10.

SECTION 13. IC 34-6-2-80 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 80. "Mental health service provider", for purposes of IC 34-30-16, means any of the following:

- (1) A physician licensed under IC 25-22.5.
- (2) A hospital licensed under IC 16-21.
- (3) A private institution licensed under IC 12-25.
- (4) A psychologist licensed under IC 25-33.
- (5) A school psychologist licensed by the Indiana state board of education.
- (6) A university or college counseling center under the direction of a licensed psychologist, physician, or mental health professional.
- (7) A registered nurse or licensed practical nurse licensed under IC 25-23.
- (8) A clinical social worker licensed under IC 25-23.6-5-2.
- (9) A partnership, a limited liability company, a corporation, or a professional corporation (as defined in IC 23-1.5-1-10) whose partners, members, or shareholders are mental health service providers described in subdivisions (1) through (6).
- (10) A community mental health center (as defined in



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1 IC 12-7-2-38).

2 (11) A program for the treatment, care, or rehabilitation of alcohol  
3 abusers or drug abusers that is:

4 (A) certified under IC 12-23-1-6; or

5 (B) created and funded under IC 12-23-14 **or IC 12-23-14.5.**

6 (12) A state institution (as defined in IC 12-7-2-184).

7 (13) A managed care provider (as defined in IC 12-7-2-127(b)).

8 SECTION 14. IC 34-30-2-47.5 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2002]: **Sec. 47.5. IC 12-23-14-19 (Concerning**  
11 **the director and members of the professional and administrative**  
12 **staff of a court alcohol and drug services program).**

13 SECTION 15. IC 34-30-2-47.7 IS ADDED TO THE INDIANA  
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2002]: **Sec. 47.7. IC 12-23-14.5-17**  
16 **(Concerning the coordinator and members of the professional and**  
17 **administrative staff of a drug court).**

18 SECTION 16. [EFFECTIVE JULY 1, 2002] **Notwithstanding**  
19 **IC 12-7-2-12, as amended by this act, a person participating in an**  
20 **alcohol and drug services program before July 1, 2002, solely as a**  
21 **result of committing an infraction may continue in the program**  
22 **until the person successfully completes the program or is removed**  
23 **for a violation or noncompliance, whichever occurs first.**

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as second author of Senate Bill 343.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 343, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 343 as introduced.)

GARTON, Chairperson

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 343, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 7, delete "shall" and insert **"may, at the discretion of the fiscal body of the unit,"**.

Page 6, line 7, delete "paid" and insert **"supplemented"**.

Page 6, line 8, after "be" insert **"further"**.

Page 7, between lines 3 and 4, begin a new line double block indented and insert:

**"(C) Any offense that a local drug court committee agrees to exclude from participation.**

**The local drug court committee referred to in subdivision (3)(C) must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney."**

and when so amended that said bill do pass.

(Reference is to SB 343 as printed January 18, 2002.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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